

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE WORLD TRADE CENTER
DISASTER SITE LITIGATION**

CHRISTOPHER RYAN, ET AL.,

Plaintiff(s),

- against -

A.RUSSO WRECKING, INC., ET AL.,

Defendant(s).

**PARTIAL STIPULATION OF
VOLUNTARY DISMISSAL WITH
PREJUDICE – DERIVATIVE CLAIM
ONLY**

21 MC 100 (AKH)

05-CV-1632

**UNOPPOSED MOTION FOR AN ORDER VOLUNTARILY
DISMISSING DERIVATIVE CLAIM**

PLEASE TAKE NOTICE that on a day to be determined by this Court, Plaintiffs' Liaison Counsel, Worby Groner Edelman & Napoli Bern, LLP, counsel for the moving plaintiffs Christopher and Erin Ryan, shall apply to the Honorable Alvin K. Hellerstein, U.S.D.J. at the Southern District of New York located at 500 Pearl Street, New York, New York, Room 14-D for an Order seeking the voluntary dismissal of all derivative claims by plaintiff Erin Ryan pursuant to Federal Rule of Civil Procedure 41(a)(1)(2).

PLEASE TAKE FURTHER NOTICE that Worby Groner Edelman & Napoli Bern, LLP shall move this Court for any additional appropriate relief in which this Court deems just and proper.

Dated: April 6, 2011

/s/ Christopher R. LoPalo
Christopher R. LoPalo (CL-6466)
Worby Groner Edelman & Napoli Bern, LLP
350 Fifth Avenue, Suite 7413
New York, New York 10118
(212) 267-3700

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MEMORANDUM OF LAW AND FACTS IN SUPPORT

Primary Plaintiff Christopher Ryan timely opted in to the World Trade Center Litigation Settlement Process Agreement, As Amended (“SPA”). Derivative Plaintiff Erin Ryan chose not to opt in to the SPA but to voluntary discontinue her lawsuit. As a result the parties entered into a stipulation pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) voluntary dismissing all derivative claims of the Derivative Plaintiff Erin Ryan, which was subsequently submitted to the Court for its endorsement.

On March 22, 2011 the Court denied to endorse the stipulation without prejudice to resubmit the stipulation pursuant to Court’s instructions in its March 21, 2011 Order regulating dismissals. As a result, attached to this motion as Exhibit “1” is the partial stipulation of voluntary dismissal with prejudice of the derivative claim only that was previously submitted to the Court for endorsement. This stipulation is now being present to the Court again for its endorsement pursuant to the Court’s March 21, 2011 Order regulating dismissals.

In order for the Primary Plaintiff Christopher Ryan to receive any compensation under the SPA, all of the claims in his lawsuit must be dismissed with prejudice. Since the Derivative Plaintiff Erin Ryan chose not to opt in to the SPA, her derivative claims would not be appropriate to add to the form Exhibit T Stipulated Order of Dismissal With Prejudice Pursuant to Final Settlement Agreement. Therefore, the parties conferred and agreed that the appropriate way to allow the Primary Plaintiff Christopher Ryan to participate in the SPA and to discontinue the derivative claims of the Derivative Plaintiff Erin Ryan was to agree to the terms in the stipulation that is attached hereto as Exhibit "1". Once the Derivative claims of Erin Ryan are discontinued, Christopher Ryan's claims can then be added to the form Exhibit T Stipulated Order of Dismissal With Prejudice Pursuant to Final Settlement Agreement which will then be submitted to the Court for endorsement to complete his opt-in to the SPA.

CONCLUSION

WHEREFORE, Worby Groner Edelman & Napoli Bern, LLP respectfully requests that this Court endorse the stipulation of voluntarily dismissal which is attached hereto as Exhibit "1" pursuant to Federal Rule of Civil Procedure 41(a)(1)(2).

Dated: April 6, 2011

/s/ Christopher R. LoPalo
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DECLARATION OF SERVICE

Christopher R. LoPalo, an attorney duly licensed to practice before the Courts of the State of New York, hereby declares that on April 6, 2011, I served the within Motion upon all counsel of record through the Court's Electronic Filing system.

April 6, 2010

/s/ Christopher R. LoPalo

Christopher R. LoPalo (CL-6466)

Worby Groner Edelman & Napoli Bern, LLP

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